

REFERENCE TITLE: governmental agency; records disposal

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2020

Introduced by
Representatives Gray C, Pearce

AN ACT

CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 39, ARIZONA REVISED STATUTES, TO "INFORMATION OBTAINED OR DISSEMINATED BY STATE AND LOCAL GOVERNMENTS"; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 39, ARTICLE 1, ARIZONA REVISED STATUTES, TO "ACCESS TO STATE AGENCY WEB SITE RECORDS AND PRIVACY"; AMENDING SECTION 41-4151, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 39, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; RELATING TO THE DISCARD AND DISPOSAL OF PERSONAL AND ENTITY IDENTIFYING INFORMATION RECORDS BY A GOVERNMENTAL AGENCY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Heading changes

3 A. The chapter heading of title 41, chapter 39, Arizona Revised
4 Statutes, is changed from "ACCESS TO STATE AGENCY WEB SITE RECORDS AND
5 PRIVACY" to "INFORMATION OBTAINED OR DISSEMINATED BY STATE AND LOCAL
6 GOVERNMENTS".

7 B. The article heading of title 41, chapter 39, article 1, Arizona
8 Revised Statutes, is changed from "GENERAL PROVISIONS" to "ACCESS TO STATE
9 AGENCY WEB SITE RECORDS AND PRIVACY".

10 Sec. 2. Section 41-4151, Arizona Revised Statutes, is amended to read:

11 41-4151. Definitions

12 In this ~~chapter~~ ARTICLE, unless the context otherwise requires:

13 1. "Agency":

14 (a) Means any board, commission, department or other administrative
15 unit of this state established by the Constitution of Arizona or by enactment
16 of the legislature.

17 (b) Includes the legislature, the courts and the governor.

18 (c) Does not include the state compensation fund.

19 2. "Agency web site" means an agency owned, operated or funded web
20 site connected to the internet and includes web sites accessed through the
21 "Arizona@yourservice" portal.

22 3. "Privacy policy statement" means a description of an agency's
23 information practices.

24 Sec. 3. Title 41, chapter 39, Arizona Revised Statutes, is amended by
25 adding article 2, to read:

26 ARTICLE 2. DISCARD AND DISPOSAL OF PERSONAL AND
27 ENTITY IDENTIFYING INFORMATION RECORDS

28 41-4161. Definitions

29 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

30 1. "ENTITY IDENTIFYING INFORMATION" HAS THE SAME MEANING PRESCRIBED IN
31 SECTION 13-2001.

32 2. "GOVERNMENTAL AGENCY" MEANS:

33 (a) ANY BOARD, COMMISSION, DEPARTMENT OR OTHER ADMINISTRATIVE UNIT OF
34 THIS STATE ESTABLISHED BY THE CONSTITUTION OF ARIZONA OR BY ENACTMENT OF THE
35 LEGISLATURE AND INCLUDES THE LEGISLATURE, THE COURTS AND THE GOVERNOR.

36 (b) ANY COUNTY AND ANY BOARD, COMMISSION, DEPARTMENT OR OTHER
37 ADMINISTRATIVE UNIT OF THE COUNTY.

38 (c) ANY CITY OR TOWN AND ANY BOARD, COMMISSION, DEPARTMENT OR OTHER
39 ADMINISTRATIVE UNIT OF THE CITY OR TOWN.

40 (d) ANY OTHER POLITICAL SUBDIVISION OF THIS STATE.

41 3. "PERSONAL IDENTIFYING INFORMATION" HAS THE SAME MEANING PRESCRIBED
42 IN SECTION 13-2001.

1 41-4162. Discarding and disposing of records containing
2 personal or entity identifying information;
3 affirmative defense

4 A. A GOVERNMENTAL AGENCY SHALL NOT DISCARD OR DISPOSE OF A RECORD
5 CONTAINING PERSONAL IDENTIFYING INFORMATION OR ENTITY IDENTIFYING INFORMATION
6 UNLESS THE GOVERNMENTAL AGENCY DOES AT LEAST ONE OF THE FOLLOWING:

7 1. SHREDS THE RECORD BEFORE DISCARDING OR DISPOSING OF THE RECORD.
8 2. ERASES THE PERSONAL IDENTIFYING INFORMATION OR ENTITY IDENTIFYING
9 INFORMATION CONTAINED IN THE RECORD BEFORE DISCARDING OR DISPOSING OF THE
10 RECORD.

11 3. MODIFIES THE RECORD TO MAKE THE PERSONAL IDENTIFYING INFORMATION OR
12 ENTITY IDENTIFYING INFORMATION UNREADABLE BEFORE DISCARDING OR DISPOSING OF
13 THE RECORD.

14 4. TAKES ACTIONS THAT THE GOVERNMENTAL AGENCY REASONABLY BELIEVES WILL
15 ENSURE THAT NO UNAUTHORIZED PERSON WILL HAVE ACCESS TO THE PERSONAL
16 IDENTIFYING INFORMATION OR ENTITY IDENTIFYING INFORMATION CONTAINED IN THE
17 RECORD FOR THE PERIOD BETWEEN THE RECORD'S DISCARD OR DISPOSAL AND THE
18 RECORD'S DESTRUCTION.

19 B. IT IS AN AFFIRMATIVE DEFENSE TO THE WRONGFUL DISCARD OR DISPOSAL OF
20 A RECORD THAT CONTAINS PERSONAL IDENTIFYING INFORMATION OR ENTITY IDENTIFYING
21 INFORMATION IF THE GOVERNMENTAL AGENCY SHOWS THAT IT USED DUE DILIGENCE TO
22 PROPERLY DISCARD OR DISPOSE OF THE RECORD.